

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4245

Date: November 20, 2008

Applicant: Mark McDonald (property owner)

Address of Property: 3419 West 28th Street

Contact Person and Phone: Mark McDonald (612) 673-6721

Planning Staff and Phone: Aaron Hanauer, (612) 673-2494

Date Application Deemed Complete: October 21, 2008

Publication Date: November 14, 2008

Public Hearing: November 20, 2008

Appeal Period Expiration: December 1, 2008

End of 60 Day Decision Period: December 20, 2008

Ward: C **Neighborhood Organization:** Cedar-Isles-Dean Neighborhood

Existing Zoning: R1, Single Family District and SH/Shoreland Overlay District

Proposed Use: New single-family dwelling

Appeal of the decision of the Zoning Administrator: Mark McDonald is appealing the decision of the Zoning Administrator to deny a curb cut along 28th Avenue (front property line) which does not meet the requirements of 530.150 Vehicular Access. The curb cut is part of the proposed plans to construct a new single-family dwelling with a front-facing, attached garage at 3419 West 28th Street in the R1, Single-Family and SH/Shoreland Overlay Districts.

In order for a new curb cut to be approved it needs to be approved by the following city disciplines:
Zoning, Sidewalks, Traffic, and Forestry.

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all

proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The Board of Adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

Background and Analysis: The subject property and all the properties that address on to West 28th Street between Chowen Avenue South and Cedar Lake Avenue are through lots (see Appendix A for map, Appendix D for lot type illustrations, and Appendix G for aeriels). A through lot is lot where both lot lines that abut the street shall be considered front lot lines and be required to maintain the front yard setbacks.

All the properties on the south side of West 28th Street between Chowen Avenue and Cedar Lake Avenue, with the exception of one, have vehicular access along Sunset Boulevard. The applicant is proposing to construct a new single-family dwelling with an attached garage that has a curb cut to access off-street parking on West 28th Street, which is the basis of the appeal (see Appendix B6-B9).

The proposed house, with the exception of the curb cut, meets zoning code requirements and design standards. All new housing that contains one to four dwellings units must receive a minimum of 15 points by containing specific design features (see Table 1 below for a list of design standards and points awarded for each feature). The applicant with the proposed design received 15 points (see shaded columns for design elements that received points). The applicant has also indicated that it is their intention to add additional window coverage on the side and rear elevations to meet the 10 percent window coverage for these elevations (see Appendix H). The additional window coverage would provide three additional points for a total of 18 points.

Table 1. Administrative Site Plan Review Design Standards

<i>Points</i>	<i>Design Standard</i>
5	Not less than one (1) off-street parking space per dwelling unit is provided in an enclosed structure that is detached from the principal structure
5	The structure includes a basement as defined by the building code
4	The primary exterior building materials are masonry, brick, stone, stucco, wood, cement-based siding, and/or glass
3	Not less than twenty (20) percent of the walls on each floor that face a public street, not including walls on half stories, are windows
3	Not less than ten (10) percent of the walls on each floor that face a rear or interior side lot line, not including walls on half stories, are windows
2	The pitch of the primary roof line is 6/12 or steeper. However, the point shall be awarded for a building with a flat roof where there is at least one existing building with a flat roof within one hundred (100) feet of the site

4	The structure includes an open front porch of at least fifty (50) square feet where there is at least one existing open front porch within one hundred (100) feet of the site
1	The development includes at least one (1) deciduous tree in the front yard

Basis of Zoning Administrator Decision: The basis of the Zoning Administrator decision to not approve the curb cut is the Zoning Administrator's interpretation of the Minneapolis Zoning Code and the Minneapolis Comprehensive Plan. In addition, the proposed curb cut runs counter to the Cedar Isles Dean Voluntary Construction Guidelines. It also runs counter to the Department policy to not require through lots on 28th Street West and Saint Paul Avenue that border Sunset Boulevard to apply for a variance for building a detached garage in the front yard of Sunset Boulevard or side yards. Below is the language from the Zoning Code, Comprehensive Plan, Guidelines, and description of the policy that informed staff's decision.

Zoning Code

530.150 (a) In general. Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and with surrounding residential uses. Curb cuts for vehicles shall be consolidated wherever possible.

Comprehensive Plan

- 2.2.3 Encourage street design which balances handling traffic flow with pedestrian orientation and principles of traditional urban form, particularly on Community Corridors and Commercial Corridors.
- 2.3.5 Maintain and enforce standards for building placement and design based primarily on the needs of the pedestrian.
- 2.3.7 Consolidate curb cuts as opportunities arise.
- 2.8: Manage parking in line with objectives for improving the environment for transit, walking and bicycling.

CIDNA Voluntary Construction Guidelines: Garages and Driveways

Where at all possible, garages should have their entrance from the alley and should be located behind the house. Attached garages are discouraged, but if necessary, should be located such that visibility between houses is preserved.

Note: the CIDNA Guidelines were not adopted by City Council. However, the Guidelines are posted on the City of Minneapolis website.

Department Policy: Sunset Boulevard

CPED-Planning and Zoning recognizes the unique situation circumstances of the through lots on West 28th Street and St. Paul Avenue. There are 45 lots on St. Paul Avenue and 28th Street West (between Chowen Avenue South and Depot Street) that border Sunset Boulevard (see Appendix A). Twenty-eight of these lots have off-street parking accessed via Sunset Boulevard; twenty-two of these lots have a detached garage in the front yard setback of Sunset Boulevard. The Department policy for through lots on Sunset Boulevard has been to allow for detached garages to be built in the front and side yard setbacks of Sunset Boulevard without requiring a variance for the following reasons:

- Recognition that Sunset Boulevard functions as a rear yard for these particular properties along Saint Paul Avenue and 28th Street West;
- To encourage development and design that blends in with the existing neighborhood fabric;
- To discourage additional curb cuts along West 28th Street and Saint Paul Avenue.

Staff Analysis: CPED-Planning believes that approval of a curb cut along West 28th Street would not be consistent or compliant with the Minneapolis Zoning Code or the Comprehensive Plan. There are 15 properties on West 28th Street between Chowen Avenue South and Depot Street and only one property has vehicular access along Sunset Boulevard. The only property that does have vehicle access along this stretch of West 28th Street is 3501 West 28th Street. In examining building records, CPED-Planning believes that this curb cut has been at this location since 1924 (see Appendix C). By maintaining the curb cut along Sunset Boulevard for off-street parking it consolidates the locations of access points. By introducing an additional curb cut along West 28th Street it introduces a type of development that is damaging to pedestrians in the following ways:

- Exposes pedestrians - especially children shorter than cars - to moving traffic;
- Allows vehicular driving on sidewalks;
- Encourages parking on sidewalks;
- Makes pedestrians feel more vulnerable compared to a street without curb cuts (source: Livable Streets);

Also, CPED-Planning believes that the best way to be in compliance with the Minneapolis Comprehensive Plan that honors the urban form and recognizes the neighborhood guidelines that encourage rear vehicular access point was to deny the curb cut along West 28th Street. The addition of a new curb cut would negatively impact the urban form by removing valuable public right-of-way from being used for trees, planting, pedestrian amenities and on-street parking spaces for the public.

Public Comments: CPED received four letters in support of the Zoning Administrator decision to deny the curb cut (see Appendix F).

Recommendation of the Department of Community Planning and Economic Development - Planning Division:

CPED Planning Division
BZZ-4245

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment **deny** the appeal of the decision of the Zoning Administrator and not allow a curb cut along West 28th Street (front property line) based on the requirements of 530.150 of the Zoning Ordinance, Chapter 2 of The Minneapolis Comprehensive Plan, not honoring the construction guidelines created by CIDNA, and Department policy.

The curb cut is part of the proposed plans to construct a new single-family dwelling with a front-facing, attached garage at 3419 West 28th Street in the R1, Single-Family and SH/Shoreland Overlay Districts.

Appendix

A: Zoning Map

B: Application

C: 3501 West 28th Street

D: Minneapolis Residential Lot Types

E: Cedar Isles Dean Neighborhood: Voluntary Construction Guidelines

F: Public Comments

G. Aerials

H. Proposed Additional Window Coverage